

SAMUEL KORNHAUSER, Esq., California Bar No. 083528
LAW OFFICES OF SAMUEL KORNHAUSER
155 Jackson Street, Suite 1807
San Francisco, California 94111
Telephone: (415) 981-6281
Facsimile: (415) 981-7616

Attorney for Defendant

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MMA CAPITAL LLC,

Plaintiff,

v.

DYNAMIC LEISURE CORPORATION,

Defendant.

) Case No. C 08-0482 MHP

) DEFENDANT DYNAMIC LEISURE
) CORPORATION'S ANSWER TO
) PLAINTIFF'S COMPLAINT

LAW OFFICES
SAMUEL KORNHAUSER
155 Jackson Street, Suite 1807
San Francisco, CA 94111

1 Defendant, DYNAMIC LEISURE CORPORATION (“DLC”), answers as follows:

2 Paragraph 1. Defendant is unaware of the truth of the allegations and therefore denies
3 all allegations therein.

4 Paragraph 2. Defendant is unaware of the truth of the allegations and therefore denies
5 all allegations therein.

6 Paragraph 3. Admit.

7 Paragraph 4. Admit.

8 Paragraph 5. Admit.

9 Paragraph 6. Admit.

10 Paragraph 7. Admit.

11 Paragraph 8. Admit that the copy of Note attached to the Complaint as Exhibit A is a
12 copy of the Note executed by DLC, but deny the legal conclusions asserted therein.

13 Paragraph 9. Admit.

14 Paragraph 10. Admit except as to allegations that DLC agreed to pay MMA up to
15 \$25,000 of attorneys fees, which allegation DLC denies.

16 Paragraph 11. Deny.

17 Paragraph 12. Admit. DLC was allowed to and encouraged to seek additional or
18 alternate financing by MMA pursuant to the Settlement Agreement between MMA and DLC.

19 Paragraph 13. Deny the allegations (which are taken out of context) except admit that
20 Exhibit C attached to the Complaint is a true copy of the January 8, 2008 letter which
21 Mr. Brandano sent to Mr. Press.

22 Paragraph 14. Admit that §4.1(ii) of the Note contains the quoted language but deny
23 that DLC has breached that provision.

24 Paragraph 15. Admit that §4.2 of the Note contains such provisions but denies that
25 DLC has defaulted or that that provision is applicable since no “Event of Default” has occurred.
26 MMA has filed this action without cause and prematurely since the amounts due under the Note
27 have not and do not mature until March 5, 2008. There has been no default. MMA has filed this
28 action in bad faith as a pretext in order to seek, in bad faith and in violation of its Settlement

1 Agreement with DLC, to prevent DLC from obtaining additional or alternate financing with
2 which to satisfy the Note.

3 Paragraph 16. Deny and deny that any breach or default have occurred which entitles
4 MMA to possession or use of the collateral or to recover attorneys fees. Rather, MMA has
5 breached its Settlement Agreement with DLC by attempting to prevent DLC from obtaining
6 alternate financing from Trafalgar by filing in bad faith this action and seeking a temporary
7 restraining order in a bad faith attempt to prevent DLC from consummating or obtaining
8 additional financing and in an attempt to obtain DLC's assets for a fraction of their value.

9 Paragraph 17. Admit.

10 Paragraph 18. Admit.

11 Paragraph 19. Deny.

12 Paragraph 20. Deny.

13 Paragraph 21. DLC incorporates its answers set forth in Paragraphs 1 through 20 above.

14 Paragraph 22. Admit.

15 Paragraph 23. Deny and deny that DLC breached the Note.

16 Paragraph 24. Deny. MMA has breached the Settlement Agreement and the Note and
17 the Security Agreement by attempting to prevent DLC from obtaining financing and by
18 attempting to prevent DLC from paying off the Note. MMA has breached its covenant of good
19 faith and fair dealing, which covenant is part of its obligation under the Note, under the Security
20 Agreement and under the Settlement Agreement, by attempting to interfere with DLC's
21 financing agreements with Trafalgar and by attempting to prevent DLC from satisfying the
22 note.

23 Paragraph 25. Deny. There has been no breach of the Note and Modifications.

24 Paragraph 26. Deny. MMA has not been damaged in any amount.

25 Paragraph 27. DLC incorporates its answers as alleged in Paragraphs 1 through 26
26 above.

27 Paragraph 28. Admit.

28 Paragraph 29. Deny.

Paragraph 30. Deny.

Paragraph 31. Deny.

Paragraph 32. Deny.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

1. MMA as failed to state facts sufficient to state a cause of action.

SECOND AFFIRMATIVE DEFENSE

2. There has been no breach of or default on the Note, Security Agreement or Settlement Agreement. MMA has filed this meritless action in bad faith and in breach of those agreements in order to prevent or interfere with DLC's ability to satisfy and pay off the Note and to prevent or interfere with DLC's contractual and business relationship with Trafalgar and in order to obtain DLC's assets for a fraction of their value.

THIRD AFFIRMATIVE DEFENSE

3. MMA, by its actions and threats seeking to interfere with and prevent DLC from obtaining additional or alternate financing from Trafalgar, has interfered with DLC's business operations and has prevented or made it impractical or impossible for DLC to perform on the Note or Settlement Agreement.

FOURTH AFFIRMATIVE DEFENSE

4. This action is premature. There has been no breach. If a breach does occur due to a failure to pay off the Note, it will have been caused by MMA's own actions in attempting to and preventing DLC from operating its business and preventing DLC from obtaining the income and/or financing to pay off MMA's Note.

FIFTH AFFIRMATIVE DEFENSE

5. MMA has not suffered any damages. If MMA suffers damages in the future, MMA's own breach of the Note, Security Agreement and Settlement Agreement and its bad faith will have caused any alleged damages.

SIXTH AFFIRMATIVE DEFENSE

6. MMA's alleged claims are speculative and premature. There has been no breach of any of the agreements between MMA and DLC.

SEVENTH AFFIRMATIVE DEFENSE

7. MMA lacks standing to bring these claims since there has been no breach and MMA has suffered no damages.

EIGHTH AFFIRMATIVE DEFENSE

8. MMA is estopped by its own actions from claiming any breach of contract.

NINTH AFFIRMATIVE DEFENSE

9. MMA waived any alleged breach of contract by agreeing to subordinate its security and allow additional financing.

TENTH AFFIRMATIVE DEFENSE

10. MMA's claims are barred by its laches in delaying claiming any breach.

WHEREFORE Defendant DLC prays as follows:

1. That Plaintiff MMA take nothing by this Complaint and that all its claims be dismissed with prejudice.

2. That MMA pay DLC its reasonable attorneys fees and costs in this action, including, but not limited to, its attorneys fees and costs in defending against MMA's request for temporary restraining order.

3. For other such relief as the Court deems appropriate.

RESPECTFULLY SUBMITTED

DATED: February 13, 2008

LAW OFFICES OF SAMUEL KORNHAUSER,

By: 

Samuel Kornhauser
Attorney for Defendant

LAW OFFICES
SAMUEL KORNHAUSER
155 Jackson Street, Suite 1807
San Francisco, CA 94111

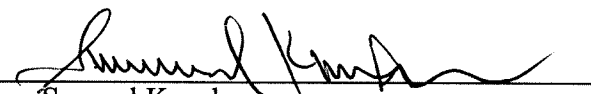
DEMAND FOR JURY

DLC hereby demands trial by jury on all claims asserted in this action.

RESPECTFULLY SUBMITTED

DATED: February 13, 2008

LAW OFFICES OF SAMUEL KORNHAUSER,

By: 
Samuel Kornhauser
Attorney for Defendant

LAW OFFICES
SAMUEL KORNHAUSER
155 Jackson Street, Suite 1807
San Francisco, CA 94111

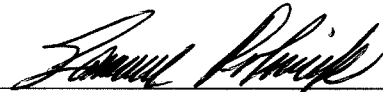
PROOF OF SERVICE

I declare that I am employed in the City and County of San Francisco. I am over the age of eighteen years and not a party to the within cause. My business address is 155 Jackson Street, Suite 1807, San Francisco, CA. On February 13, 2008, I served the within **DEFENDANT DYNAMIC LEISURE CORPORATION'S ANSWER TO PLAINTIFF'S COMPLAINT** on the party below in said cause:

Michael R. Matthias, Esq.
John J. Leonard, Esq.
Baker & Hostetler LLP
12100 Wilshire Boulevard, 15th Floor
Los Angeles, CA 90025-7120

via e-mail and United States Mail.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on February 13, 2008, at San Francisco, CA.



Samuel Rolnick